_____ BILL NO. _____

INTRODUCED BY ____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A WINDFALL REVENUE TAX ON CERTAIN NATURAL GAS PRODUCTION IF THE GROSS TAXABLE VALUE OF PRODUCTION EXCEEDS A SPECIFIED DOLLAR AMOUNT PER THOUSAND CUBIC FEET OF PRODUCTION; IMPOSING A WINDFALL REVENUE TAX ON CERTAIN OIL PRODUCTION IF THE GROSS TAXABLE VALUE OF PRODUCTION EXCEEDS A SPECIFIED DOLLAR AMOUNT PER BARREL OF OIL; AMENDING SECTIONS 15-36-304 AND 15-36-332, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Windfall revenue tax.** (1) In lieu of the tax imposed under 15-36-304, there is imposed on the gross taxable value of oil and natural gas production a windfall revenue tax as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) (a) If the gross taxable value of natural gas production as determined under 15-36-305 by type of well for the calendar quarter is less than $10 per thousand cubic feet, then after 12 months, qualifying natural gas production is taxed as provided in 15-36-304(2)(a)(ii)(A) or (2)(a)(ii)(B) for that calendar quarter, and after the first 18 months, horizontally completed well production is taxed as provided in 15-36-304(2)(c)(ii) for that calendar quarter.

(b) After 12 months, if the gross taxable value of qualifying natural gas production in the calendar quarter is equal to or greater than $10 per thousand cubic feet as determined under 15-36-305, the tax on the gross taxable value of qualifying natural production is as provided in subsection (3) for that calendar quarter.

(c) After 18 months, if the gross taxable value of natural gas production from horizontally completed wells in the calendar quarter is equal to or greater than $10 per thousand cubic feet as determined under 15-36-305, the tax on the gross taxable value of natural gas production from horizontally completed wells is as provided in subsection (3) for that calendar quarter.

(3) Natural gas is taxed under this section on the gross taxable value of production according to the following schedule for working interest and nonworking interest owners:

(a) if the gross taxable value of natural gas production is equal to or greater than $10 but less than $12 per thousand cubic feet, the tax on production is:

Working interest	Nonworking interest
17%	14.8%

(b) if the gross taxable value of natural gas production is equal to or greater than $12 but less than $14 per thousand cubic feet, the tax on production is:

Working interest	Nonworking interest
19%	14.8%

(c) if the gross taxable value of natural gas production is equal to or greater than $14 per thousand cubic feet, the tax on production is:

Working interest	Nonworking interest
21%	14.8%

(4) (a) If the gross taxable value of oil as determined under 15-36-305 by type of well for the calendar quarter is less than $100 per barrel, then after 12 months, primary recovery oil production is taxed as provided in 15-36-304(5)(a)(ii)(A) or (5)(a)(ii)(B) for that calendar quarter, and after 18 months horizontally completed well production is taxed as provided in 15-36-304(5)(f)(ii)(A) or (5)(f)(ii)(B) for that calendar quarter.

(b) An oil stripper well that produces more than 10 barrels a day is taxed as provided in 15-36-304(5)(b)(i) and 15-36-304(5)(b)(ii) for the calendar quarter only if the value of oil production as determined under 15-36-305 for the calendar quarter is less than $100 per barrel.

(c) (i) After 12 months, if the gross taxable value of primary recovery oil production in the calendar quarter is equal to or greater than $100 per barrel, the tax on the gross taxable value of primary recovery oil production is as provided in subsection (5) for that calendar quarter.

(ii) After 18 months, if the gross taxable value of oil production from horizontally completed wells in the calendar quarter is equal to or greater than $100 per barrel, the tax on the gross taxable value of production from horizontally completed wells is as provided in subsection (5) for that calendar quarter.

(iii) If the gross taxable value of oil production in the calendar quarter from stripper wells that produce more than 10 barrels of oil a day is equal to or greater than $100 per barrel, the tax on the gross taxable value of production from stripper wells that produce more than 10 barrels a day is as provided in subsection (5) for that calendar quarter on production in excess of 10 barrels a day.

(5) Oil is taxed under this section on the gross taxable value of production according to the following schedule for working interest and nonworking interest owners:

(a) if the gross taxable value of oil production is equal to or greater than $100 but less than $120 per barrel, the tax on production is:

Working interest	Nonworking interest
15%	14.8%

(b) if the gross taxable value of oil production is equal to or greater than $120 but less than $140 per barrel, the tax on production is:

Working interest	Nonworking interest
18%	14.8%

(c) if the gross taxable value of oil production is equal to or greater than $140 per barrel, the tax on production is:

Working interest	Nonworking interest
21%	14.8%

(6) The tax rates imposed under subsections (3) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil, gas, and coal natural resource account as determined under 15-36-304(7).

Section 2. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas -- exemption. (1) ~~The~~ Except as provided in [section 1], the production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) except as provided in [section 1], after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%

(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) except as provided in [section 1], after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) except as provided in [section 1], after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) except as provided in [section 1], more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) except as provided in [section 1], after 18 months:		
(A) pre-1999 wells	12.5%	14.8%

(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $30 a barrel. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter as determined in subsection ~~(6)(d)~~ (6)(e), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $38 a barrel as determined in subsection (6)(e). If the price of oil is equal to or greater than $38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces

3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than $38 a barrel <u>as determined in subsection (6)(e)</u>.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil, gas, and coal natural resource account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil, gas, and coal natural resource account may not exceed 0.3%. The base rate for the tax for oil, gas, and coal natural resource account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil, gas, and coal natural resource account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 3. Section 15-36-332, MCA, is amended to read:

"15-36-332. Distribution of taxes to taxing units -- appropriation. (1) (a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil, gas, and coal natural resource account under 15-36-331(2)(b) as provided in subsection (8).

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%

Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 <u>and [section 1]</u> for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(9) The distributions to taxing units and to counties and incorporated cities and towns under this section

are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 36, part 3, and the provisions of Title 15, chapter 36, part 3, apply to [section 1].

NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2009.

NEW SECTION. **Section 7. Applicability.** [This act] applies to oil and natural gas produced and sold after June 30, 2009.

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